

REMARKS

1 Applicant greatly appreciates the Examiner's Notice of Allowance of claim 26.
Claims 1-8, 10-15, 17, 21-26 and 28-30 remain in this application for the Examiner's
consideration. Claims 1 and 25 have been amended and claims 18, 19 and 27 have
5 been canceled without prejudice. Claim 30 has been added to recite many of the same
limitations as allowed claim 26. Claim 30 recites at least one exercise attachment
means on the foot supporting portion. Claim 30 also recites first and second tubular
members. Applicant asserts that this combination of structure is allowable over the
Examiner's cited art for many of the same reasons claim 26 is allowable.

10 The Examiner rejected claims 1, 17-19, 21, 23, 25 and 27-29 under 35 U.S.C. §
102(b) as being anticipated by Tong et al. Even though applicant believes that the
claims are clearly allowable as written, applicant has amended claim 1 and canceled
claims 18, 19 and 27 to clarify the present invention for the Examiner and expedite this
15 matter. Regarding claim 1, claim 1 has been amended to recite that the lower portion
has an upper end and a substantially rigid parabolic-shaped lower end. Claim 1 has
been further amended to recite that the upper end of the lower portion has an elongated
recessed area formed therein. The recessed area is defined by a forward end, a
20 rearward end and generally vertical opposite sides. Claim 1 has also been amended to
recite that a foot supporting and retaining portion is operatively secured to the opposite
side walls of the elongated recessed area for maintaining a person's foot in the
recessed area. Applicant believes that Tong does not teach or otherwise disclose these
limitations. Tong teaches a bouncing boot having a resilient bouncing element with a
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1 hemispheric lower portion mounted in a fixed position on the underside of a platform. If
the resilient bouncing portion was a rigid parabolic shape as described in the present
invention, the bouncing boot described in Tong would not work. Moreover, Tong does
not teach an elongated recessed area in the upper end of the lower portion. In that
5 Tong does not teach a recessed area, Tong clearly does not teach a foot supporting
and retaining portion operatively secured to the side walls of the elongated recessed
area.

With regard to claim 17 of the present invention, claim 17 recites that the foot
supporting and retaining portion is selectively removably secured to the lower end.
10 Applicant asserts that Tong does not teach or otherwise disclose that the boot portion is
removable from the lower end portion. Tong does teach that the boot portion is
adjustable. However, the adjustability of the boot is not the same as the foot supporting
and retaining portion being removable from the lower portion. Also, claim 17 depends
15 from independent claim 1. Claim 1 is allowable for the same reasons set forth above
and therefore, applicant asserts that claim 17 is also allowable for those same reasons.

Regarding claim 25 of the present invention, claim 25 is an independent claim
that recites many of the same limitations as independent claim 1. Applicant believes
that claim 25 is allowable for many of the same reasons set forth above in support of
20 claim 1. Tong simply does not teach that the upper end of the lower portion has an
elongated recessed area formed therein. Tong also does not teach that the recessed
area is defined by a forward end and a rearward end and generally vertical opposite
side walls. Furthermore, Tong does not teach that a foot supporting and retaining
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1 portion is operatively secured to the side walls of the elongated recessed area for supporting and retaining a person's foot in the recessed area.

5 Independent claim 28 recites that the foot supporting and retaining portion includes a recessed portion having a forward end, a rearward end and opposite sides. Claim 28 continues by reciting that an arcuate, inverted U-shaped member extends over the forward end of the recessed portion. Again, as more fully set forth above, Tong merely teaches a boot mounted to a platform. Tong does not teach a recessed portion. In that Tong does not teach a recessed portion, Tong does not teach or otherwise disclose an arcuate, inverted U-shaped member that extends over the front end of the
10 recessed portion.

Claim 21 of the present invention recites that a heel retainer is adjustably positioned rearwardly of the U-shaped member. Again, as more fully set forth above, Tong does not teach or otherwise disclose a heel retainer that is adjustable. Tong
15 merely teaches a boot mounted to a platform. With regard to claim 23, claim 23 recites that the U-shaped member is secured to the upstanding walls. Tong clearly does not teach a U-shaped member secured to upstanding walls. Tong merely teaches a boot member. Moreover, claims 21 and 23 depend from independent claim 28. Claim 28 recites a recessed portion having a forward end, a rearward end and opposite sides.
20 Insofar as claims 21 and 23 depend from independent claim 28, applicant believes the same are also allowable for the reasons set forth above in support of independent claim 28.

1 Claim 29 is an independent claim which recites that the foot supporting and
retaining portion includes a recessed portion having a forward end, a rearward end and
opposite side walls. Independent claim 29 continues by reciting that the recessed
portion is concaved. Claim 29 also recites that the recessed portion has upstanding
5 walls at the opposite sides. Tong does not teach a recessed portion. In that Tong does
not teach a recessed portion, Tong clearly does not teach a recessed portion that is
concaved or a recessed portion that has upstanding walls at the opposite sides.
Accordingly, applicant asserts that claims 1, 17, 21, 23, 25 and 28-29 are allowable over
the Examiner's 35 U.S.C. § 102(b) rejection in view of Tong.

10 The Examiner rejected claims 1-4 and 17 under 35 U.S.C. § 103(a) as being
unpatentable over Seel in view of Hoyle. There is no suggestion in either of the
references that they may be combined in the manner suggested by the Examiner.
Furthermore, even if the Examiner's proposed combination could be made, the
15 proposed combination fails to teach many of the limitations of amended claim 1. As
more fully set forth above, claim 1 has been amended to recite that the upper end of the
lower portion has an elongated recessed area formed therein. The recessed area is
defined by a forward end, a rearward end and generally vertical opposite side walls.
Claim 1 has also been amended to recite that a foot supporting and retaining portion is
20 operatively secured to the opposite side walls of the elongated recessed area for
maintaining a person's foot in the recessed area. Neither Hoyle nor Seel teach such a
recessed area, side walls or a foot supporting and retaining portion operatively secured
to the side walls.

1 In anticipation of the Examiner's reliance on the combination of Hoyle, Seel, Kost
and Timko in rejecting claims 1-4 and 17, applicant asserts that the same are not
combinable in the manner suggested by the Examiner. Furthermore, claim 1
specifically recites an elongated recessed area in the upper end of the lower portion.
5 Claim 1 also recites that this recessed area is defined by a forward end, a rearward end
and generally vertical opposite side walls. Claim 1 continues by specifically reciting that
a foot supporting and retaining portion is operatively secured to the opposite side walls
of the elongated recessed area for maintaining a person's foot in the recessed area.
Neither Kost nor Timko teach this limitation. Kost merely teaches two foot plate
10 members that are cup shaped. Kost does not teach that the upper end of the lower
portion has an elongated recessed area. Also, Kost does not teach that a foot retaining
portion is secured to the side members of a recessed area. Regarding Timko, Timko
teaches manicure and pedicure support trays. For the same reasons set forth above to
15 distinguish Kost, applicant asserts that Timko does not teach the limitations of
independent claim 1.

Claim 2 recites that at least one exercise attachment means is provided on the
foot supporting and retaining portion. Claim 3 recites that the exercise attachment
means has a receiving means for receiving a weight means thereon. Claim 4 recites
20 that the receiving means comprises an upstanding pipe stub and claim 17 recites that
the foot supporting and retaining portion is selectively removably secured to the lower
portion. Applicant asserts that these limitations are not taught or otherwise suggested
by any combination of art that the Examiner might propound. Moreover, claims 2-4 and
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17 ultimately depend from independent claim 1. Claim 1 is allowable for the reasons set forth above and therefore applicant asserts that claims 2-4 and 17 are allowable for those same reasons.

The Examiner rejected claims 5-7, 10-15 and 24 under 35 U.S.C. § 103(a) as being unpatentable over Seel et al. in view of Hoyle et al. and further in view of Little. The Examiner's rejection depends from the Examiner's rejection of claim 1 under 35 U.S.C. § 102 and 103. Applicant asserts that claim 1 is allowable over the Examiner's rejections for the reasons set forth above. Accordingly, claims 5-7, 10-15 and 24 are also allowable. Moreover, there is no suggestion in either of the references that they may be combined in the manner suggested by the Examiner. Even if there was such a suggestion, the Examiner's proposed combination still fails to teach all of the limitations of claims 5-7, 10-15 and 24. Claim 6 recites that the upper end of the first tubular member has a hand grip portion thereon. Claim 7 recites that the first tubular member has weights mounted thereon. Claim 11 recites that a plurality of exercise attachment receiving means are provided on the foot supporting and retaining portion. Claim 12 recites that each of the exercise attachment receiving means comprises a pipe stub. Applicant asserts that none of the Examiner's cited art teaches or otherwise suggests these limitations.

Specifically regarding claim 5, claim 5 recites that a first elongated tubular member, having upper and lower ends, has its lower end received by the pipe stub and extends upwardly therefrom. This limitation is not taught or otherwise suggested by the Examiner's cited art. Note that the elongated tubular members disclosed in Little are

1 connected directly to a bracket. Little does not teach an elongated tubular member
received by a pipe stub. Regarding claim 10, claim 10 recites a plurality of over lapping
tubular members secured to the pipe stub and extending upwardly therefrom. None of
the Examiner's cited art teaches that a plurality of tubing members overlap. Claim 13
5 recites that the foot supporting and retaining portion has a forward end, a rearward end
and opposite sides, and wherein a pipe stub extends upwardly from the foot supporting
and retaining portion at its forward end and at each of its sides adjacent the forward end
thereof. Again, as set forth above, none of the Examiner's cited art teaches a retaining
portion that has a forward end, a rearward end and opposite sides. Also, the
10 Examiner's cited art does not teach or otherwise render obvious pipe stubs that extend
upwardly from the foot supporting and retaining portion at the forward end and at the
sides of the foot supporting and retaining portion. The only pipe stub disclosed by the
Examiner's cited art is disclosed in Hoyle. The pipe stub disclosed in Hoyle is disposed
15 laterally outwardly from the forward end of the foot portion.

With regard to claim 14 of the present invention, claim 14 recites a horizontally
extending pipe stub that extends forwardly from the pipe stub located at the forward end
of the foot supporting and retaining portion. Claim 15 recites a pipe stub that extends
20 outwardly from the foot supporting and retaining portion rearwardly of the pipe stub
located at the forward end thereof. Claim 24 recites that the pipe stub which extends
upwardly from the foot supporting retaining portion rearwardly of the pipe stub located at
the forward end thereof is selectively removable. Again, as previously stated, the only
pipe stub disclosed by the Examiner's cited art is disclosed in Hoyle. Hoyle merely
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1 teaches a single pipe stub which is disposed laterally outwardly from the forward end of
the foot portion. In that Hoyle only teaches a single pipe stub, Hoyle cannot possibly
teach a plurality of positioned pipe stubs nor a removable pipe stub. Accordingly,
applicant asserts that claims 5-7, 10-15 and 24 are clearly allowable over the
Examiner's 35 U.S.C. § 103(a) rejection.

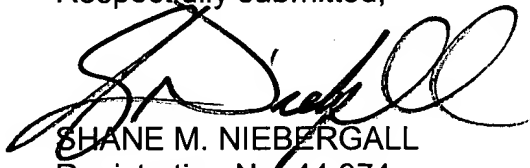
5 Claims 18-19 and 25 were rejected under 35 U.S.C. § 103(a) as being
unpatentable over Seel et al. in view of Hoyle et al. and further in view of Kost and
Timko. As set forth above, claims 18 and 19 have been canceled without prejudice.
With regard to independent claim 25, applicant relies on the above-stated argument in
10 opposition to the Examiner's rejection of claims 1-4 and 17.

The Examiner rejected claim 8 under 35 U.S.C. § 103(a) as being unpatentable
over Seel et al. in view of Hoyle et al. and Little as applied to claim 5, and further in view
of Boggild. Applicant believes that the references are not combinable in the manner
15 suggested by the Examiner. Boggild teaches a mounting device for a gymnastics pole.
Such a device is not in the same field of endeavor as Seel, Hoyle or Little. Therefore,
applicant asserts that a person of ordinary skill in the art who is concerned with ankle
exercise devices would not consider a reference such as Boggild which is entirely
unconcerned with ankle exercise devices. Furthermore, claim 8 ultimately depends
20 from independent claim 1. Claim 1 is allowable for the reasons set forth above and
therefore applicant asserts that claim 8 is also allowable for those same reasons.

1 In light of the above amendments and remarks, applicant asserts that the claims
are in condition for allowance. Applicant respectfully requests reconsideration and
allowance of the same.

5 No fees or extensions of time are believed to be due in connection with this
amendment; however, consider this a request for any extension inadvertently omitted,
and charge any additional fees to Deposit Account No. 502093.

Respectfully submitted,



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15 CERTIFICATE OF MAILING

I hereby certify that the original of this AMENDMENT for STUART G. OXFORD,
Serial No. 09/772,029, was mailed by first class mail, postage prepaid, to Mail Stop
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22313-1450 on this 30th day of APRIL, 2004.



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